

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Dominic Javon Gilbert,

Plaintiff,

V.

Dana Aiken, Victoria Albergottie,
Quandara Grant,

Defendants.

Case No. 6:23-cv-05256-JDA-KFM

OPINION AND ORDER

This matter is before the Court on a motion to dismiss filed by Defendant Quandara Grant. [Doc. 59.] In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings.

On January 16, 2025, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that the motion to dismiss be denied. [Doc. 84.] The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. [*Id.* at 12.] No party has filed objections to the Report and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate

Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, the motion to dismiss [Doc. 59] is DENIED¹ and Defendant Grant is directed to file an Answer to the Amended Complaint [Doc. 33] within 14 days of this Order.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

February 13, 2025
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹ To the extent the Amended Complaint asserts an Eighth Amendment medical indifference claim against Defendant Grant, that claim is dismissed. [Doc. 84 at 7; see *a/so* Doc. 69 (dismissing Plaintiff’s Eighth Amendment medical indifference claims against the medical defendants).]